

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

TROY M. HURD,

Plaintiff,

V.

THE CITY OF LINCOLN, a political  
subdivision, TOM CASADY, JOHN HUFF,  
PAT BORER, ROGER BONIN, JEANNE  
PASHALEK, and LEO BENES, in their  
individual and official capacities,

Defendants.

Case No. 4:16-cv-03029

**DEFENDANT CITY OF LINCOLN'S  
MOTION TO EXCLUDE  
PLAINTIFF'S PROPOSED EXPERT  
TESTIMONY/OPINIONS BY  
AMY OPPENHEIMER**

Defendant City of Lincoln (“Defendant”), pursuant to *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 113 S. Ct. 2786 (1993) and its progeny, Fed. R. Evid. 702, and NECivR 7.1, moves the Court for an Order excluding all testimony of Amy Oppenheimer and any other evidence of and/or reference to Oppenheimer’s opinions. (Doc. #115-1); (Doc. #115-2); (Doc. #115-3). In support of this motion, Defendant submits that Oppenheimer’s opinions are irrelevant and inadmissible, because Oppenheimer is not qualified to render opinions regarding the City of Lincoln’s internal EEO investigative practices and procedure, her opinion lacks a sufficient factual basis, her opinions are not the product of reliable principals and methods, and her opinions are irrelevant to the claims actually pled by Plaintiff ([Doc. #18](#)) and the affirmative defenses asserted by Defendant ([Doc. #21](#)). Defendant offers to the Court a brief filed contemporaneously herewith in support of this motion.

WHEREFORE, Defendant City of Lincoln requests an Order prohibiting Oppenheimer from testifying at trial and prohibiting Plaintiff, his counsel, and any other witnesses from mentioning, making reference to, eliciting testimony regarding, or offering evidence of Oppenheimer's opinions.

DATED: September 7, 2018.

CITY OF LINCOLN, Defendant

JEFFERY R. KIRKPATRICK, City Attorney  
JOCELYN W. GOLDEN, Assistant City Attorney  
ABIGAIL F. LITTRELL, Assistant City Attorney

By: /s/ Abigail F. Littrell  
Abigail F. Littrell, #24423  
Jocelyn W. Golden, #23039  
555 South 10th Street, Suite 300  
Lincoln, NE 68508  
(402) 441-7281  
[alittrell@lincoln.ne.gov](mailto:alittrell@lincoln.ne.gov)  
[jgolden@lincoln.ne.gov](mailto:jgolden@lincoln.ne.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on September 7, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The foregoing document was sent electronically to:

Kelly K. Brandon, [kelly@employmentlawnebraska.com](mailto:kelly@employmentlawnebraska.com)  
Paige Fiedler, [paige@employmentlawnebraska.com](mailto:paige@employmentlawnebraska.com)  
Stephanie Costello, [stephanie@employmentlawnebraska.com](mailto:stephanie@employmentlawnebraska.com)

By: /s/ Abigail F. Littrell  
Abigail F. Littrell, #24423